

No. 9/7/86-61.ab./9523.—In pursuance of the provisions of section 17 of the Industrial Disputes Act 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of Secretary, Haryana State Electricity Board, Chandigarh.

BEFORE SHRI B.P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 199 of 1982

Between

SHRI SURAJ BHAN "OP" AND THE MANAGEMENT OF SECRETARY, HARYANA STATE  
ELECTRICITY BOARD, CHANDIGARH

Shri S.N. Solanki, A.R. for the workman.  
Shri S.S. Sirohi, A.R. for the management.

#### AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between the workman Shri Suraj Bhan and the management of Secretary, Haryana State Electricity Board, Chandigarh, to this Court, for adjudication,—*vide* Haryana Government Gazette Notification No. ID/SPT/101/82/46337, dated 8th October, 1982 :—

Whether the termination of service of Shri Suraj Bhan was justified and in order? If not, to what relief is he entitled?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the petitioner is that he was employed by the respondent since April, 1979, on a permanent post as Assistant Lineman at Operation Sub-Division, Gohana, and was drawing wages of Rs. 598.60 after deduction of Provident Fund and that on 24th April, 1980, he met with an accident during the course of his employment and suffered 50 per cent disability and when the respondent did not pay him compensation for the disability he suffered, he was constrained to file a claim before the Commissioner under the Workman Compensation Act, Sonapat, which annoyed the respondent, who terminated his services,—*vide* order dated 8th April, 1982. *Inter alia*, it is alleged that it is general practice of the respondent not to discharge or terminate the services of the workman, who suffer injuries during the course of employment. He has given the instances of Raghubir Singh, Lineman at Operation Division, Sub-Urban, Jind, Karan Singh, Lineman, at Operation Sub-Division, Gohana, Om Parkash at sub-office Nagura (Jind) and Duli Chand at Jhajjar. It is alleged that all these persons suffered disability of varying degrees but even then the respondent did not terminate their services and some of them were provided alternative post without any loss in wages. He has further alleged that he was not given any prior one month's notice or any compensation as envisaged under section 25F of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act). So, he has prayed for setting aside the order of termination/discharge, the same being violative of the provisions of the said Act.

3. In the detailed reply furnished by the respondent, preliminary objection taken is that the claim petition is premature and that he has no existing right to file the present petition. On merits, employment of the petitioner as alleged is admitted and so the accident suffered by him on 24th April, 1980, while he was on duty at Jasrana Feeder. It is further alleged that the petitioner suffered accident because of his own negligence and that the accident could have been averted if the petitioner had exercised due care and caution in the performance of his duties. It is further alleged that the case of the petitioner regarding payment of compensation is still under consideration with the competent Authority.

4. On the pleadings of the parties, the following issues were settled for decision on 24th July, 1985 :—

- (1) Whether the claim is premature? OPR
- (2) As per terms of reference.

5. The petitioner himself appeared as his own witness as WW-1 and examined Shri Mangat Ram, Assistant Lineman as WW-2 and Shri Pyare Lal, Meter Reader as WW-3. The respondent produced R.L. Dhall, Head Clerk, as MW-1, MW-3 Shri M.L. Aneja, Assistant Accountant.

6. The learned authorised representatives of the parties heard. My findings on the issues framed are as below :

Issue No. 1 ;

7. The learned authorised representative of the respondent Shri Sirohi did not press the decision of this issue, because there is nothing on record to hold that the claim of the petitioner is premature.

## Issue No. 2 :

8. It was forcefully contended by Shri Sirohi, learned Law Officer of the respondent, that the case of the petitioner does not fall within the ambit of term "retrenchment" as defined in section 2(oo) of the said Act, because his case falls within the proviso (c) appended to the said section. The said proviso reads as under :—

- (o) .. .. .
- (oo) .. .. .
- (a) .. .. .
- (b) .. .. .
- (bb) .. .. .

(c) termination of the service of a workman on the ground of continued ill-health.

9. He based his contention on the medical certificate allegedly issued by the Medical Officer, Civil Hospital, Gohana. It is hardly a medical certificate regarding disability suffered by the petitioner in the accident suffered on 24th April, 1980, during the course of his employment, because the same is an endorsement on an application given by the S.D.O., Operation, Gohana. The said application was addressed to the petitioner and upon the same the opinion of the Doctor dated 19th July, 1981, reads as under :—

"though he can resume his duties, but he is having about 50 per cent disability of left hand as compared to normal in its functioning capability.

(Sd.) . . . .

Medical Officer,  
Civil Hospital, Gohana."

10. Through this opinion of the Doctor, learned authorised representative of the respondent, built up this argument to contend that since the petitioner had suffered 50 per cent disability of his left hand, so he was incapable of performing the duties of Assistant Lineman, a job which requires free movement of both hands and as such, the case of the petitioner squarely falls within the proviso (c) appended to section 2(oo) of the said Act. Luckily during the course of arguments, the petitioner was present in the Court, so, this Court had an opportunity to see the injuries suffered by the petitioner on the left hand. There was free movement of the joints of the left hand except there were burn scars near the shoulders and below the palm of the hand. It is agonising to hold that a qualified Doctor chose to give such an opinion that the petitioner has about 50 per cent disability of his left hand. The respondent/Board without having further expert opinion about the disability of the opinion, chose to pass an order of discharge in has without exploring possibility of providing alternative employment to the petitioner. In the respondent/Board employees of various categories are functioning right from the Peon to the Chief Engineer level and the petitioner who is the only bread earner in the family and is hardly forty-two years in age could have been adjusted in some alternative employment as his case does not fall within the exceptions provided in section 2(oo) of the said Act. Simply because there is slight hindrance in the movement of left hand will not render him a person having "continued ill health". The words in commas have been borrowed by me from the exception "C" provided in section 2(oo) of the said Act. Under these circumstances, the case of the petitioner hardly falls within the said exception and as such his discharge from service squarely falls within the ambit of term "retrenchment" as provided in section 2(oo) of the said Act and so, he was entitled to retrenchment compensation as envisaged under section 25F of the said Act, which admittedly was not paid to him at the time when discharge order was passed. Copy of the discharge order is Ex. M-2. Therein besides compensation under the Workman Compensation Act, the petitioner was ordered to be paid a sum of Rs. 555 on account of Terminal Gratuity at 15 days pay for each complete year of service as on 8th April, 1982. This payment does not cover fully the retrenchment compensation payable to the petitioner under section 25F of the said Act. So, the order of termination, which is patently retrenchment is illegal, void *ab initio* and as such, not sustainable.

11. Now, the question would be as to whether the petitioner should be reinstated to the job he was holding at the time when discharge order was passed. The job of Assistant Lineman is a hazardous one, which needs free movement of fingers of both hands, because the Assistant Lineman has to sometime climb up on the electricity poles to perform his duties. This the petitioner may not be capable of doing. The petitioner who was present in the Court will accept alternative employment even of a scale lesser than that of an Assistant Lineman. So, looking to the totality of the circumstances, it is hereby ordered that the petitioner shall be provided alternative employment by the respondent/Board preferably as a Peon or some other job, which does not involve active movement of both hands. Loss in salary, which the petitioner is likely to suffer by accepting a junior assignment stands amply compensated from the amount received by him in lump sum as compensation under the Workman Compensation Act. So, the respondent/Board shall provide alternative employment to the petitioner in the light of the observation made above within one month.

from the publication of the award in the gazette notification. Now, the question of back wages survives. The order of termination is dated 8th April, 1982. Since then he is out of employment, because there is no evidence on file that the petitioner remained gainfully employed after discharge from the respondent, but he received compensation amount of more than Rs. 13,000 in lump sum. This amount when put in fixed deposit would earn a sum of Rs. 1,800 per annum to the petitioner as interest. His wages at the time of discharge were slightly less than Rs. 600 per mensem. So, that would mean that the petitioner would earn wages of about three months from the interest of the amount paid to him. Unfortunately no copy of the demand notice has been received along with the order of reference. The reference order is dated 8th June, 1982. The petitioner was sacked on 8th April, 1982. So, that would mean that he raised the demand notice with all promptitude. So, I allow him back wages to the extent of 75 per cent and he shall have benefits of previous service also, though he is ready to accept a lower assignment also. The reference is answered and returned accordingly with no order as to cost.

Dated the 9th September, 1986.

B.P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak,  
Camp Court, Sonapat.

Endorsement No. 199-82/1436, dated 6th October, 1986

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B.P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak,  
Camp Court, Sonapat.

No. 9/7/86-6Lab/9524.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947, (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s Haryana Sheet Glass, Saveli (Sonapat)

BEFORE SHRI B.P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 7 of 1986

*between*

SHRI NET RAM, WORKMAN AND THE MANAGEMENT OF M/S HARYANA SHEET GLASS,  
SAVELI (SONEPAT)

Shri S.N. Solanki, A.R. for the workman.

Shri S. Kaushal, A.R. for the management.

#### AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between the workman Shri Net Ram and the management of M/s Haryana Sheet Glass, Saveli (Sonapat), to this Court, for adjudication,—*vide Haryana Government Gazette Notification No. 55-60, dated 1st January, 1986* :—

Whether the termination of services of Shri Net Ram/ striking off name from the attendance register of the institution is justified and in order? If not, to what relief is he entitled?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the petitioner is that he was employed with the respondent as a Turner since 15th January, 1979, on monthly wages of Rs. 440 and that he remained ill from 10th November, 1980 to 31st December, 1980 and has been sending medical certificate through registered post on different dates and that he reported for duty on 1st January, 1982, but the respondent did not allow to resume duties and in this way terminated his services without assigning any reason in gross violation of the provisions of section 25F of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act). *Inter alia*, it is alleged that no charge-sheet was ever issued to him, nor any domestic enquiry was held. He has prayed for reinstatement with continuity of service and full back wages.

3. In the reply filed by the respondent preliminary objection taken is that the reference is bad in law. On merits, it is alleged that the petitioner joined the services of the respondent on 15th January, 1979, on monthly wages of Rs. 450 as an Electrician and not Turner as alleged. It is further alleged that the petitioner started absents from his duties w.e.f. 4th November, 1980 and that as per clause 15 of the Certified Standing Orders of the respondent company, any workman absents from his duties without prior permission for eight consecutive days is deemed to have abandoned his employment and that when the petitioner did not turn up up to 14th November, 1980, the management was justified in presuming that the petitioner has abandoned his employment and that no medical certificate was received till then and that the management did not receive any letters dated 15th November, 1980, 21st November, 1980, 28th November, 1980, as alleged and that the name of the workman was not on the rolls of the company on 1st January, 1980 and as such, there was no question of terminating his services as he had abandoned his employment of his own.

4. On the pleadings of the parties, the following issues were settled for decision by me on 24th March, 1986 :—

(1) Whether the reference is bad in law ?

(2) As per terms of reference.

5. In support of his case, the petitioner appeared as WW-1 and the management examined Shri Devinder Nath, Time-keeper, MW-1.

6. The learned authorised representatives of the parties heard. My findings on the issues framed are as below :

#### Issue No. 1 :

7. Though a preliminary objection taken by the respondent that the reference is bad in law, but the same was not elaborated as to what ground the reference is bad in law. During the course of arguments, the learned authorised representative of the respondent has not been able to convince this Court as to why the reference is bad in law. So, this issue goes against the respondent.

#### Issue No. 2 :

8. The petitioner when he appeared in the Court stated that he was employed as a Turner on 15th January, 1979 (the respondent has alleged that the petitioner was employed as Electrician initially and that the respondent chose to terminate his services unlawfully with effect from 1st January, 1981, because he had proceeded on medical leave from 10th November, 1980 to 31st December, 1980 and that when he approached the respondent on 1st January, 1981, along with the fitness certificate, he was not allowed to resume his duties. In cross-examination the petitioner stated that he submitted the medical certificate on 14/15th November, 1980 from Bahalgarh and that he had remained on duty in the respondent factory up to 9th November, 1980. He further admitted that he had not proceeded on leave after getting the same sanctioned and that he had applied for leave on 10th November, 1980.

9. On the other hand Shri Devinder Nath, Time-keeper of the respondent, who was examined as MW-1 stated that the petitioner was on duty up to 3rd November, 1980 and thereafter he started remaining absent from duty from 4th November, 1980 and that he was marked absent up to 14th November, 1980, after which date, he was presumed to have abandoned his employment, being absent for ten consecutive days without leave or intimation, in terms of the Certified Standing Orders applicable upon the respondent/Company.

10. On behalf of the petitioner Shri Solanki contended that the petitioner never abandoned his employment as alleged by the respondent and that the respondent is guilty of withholding the medical certificate sent by the petitioner on 14th/15th November, 1980 from Bahalgarh to make out a case of abandonment and that the claim of the respondent is falsified from the photo copy of the attendance card admittedly issued by the respondent to the petitioner, wherein he has been marked present up to 9th November, 1980. In my opinion, the learned authorised representative of the petitioner was not on sound footing in so contending. The petitioner himself admitted that he proceeded on leave without getting the same sanctioned. He further stated that he approached the management only on 1st January, 1981, along with the fitness certificate. He has not produced in the Court any medical certificate evidencing his pro-longed illness from 10th November, 1980 to 31st December, 1980. He has also not produced on the file any medical certificate of this period. There is a provision in the Certified Standing Orders placed on record in clause 15.9 that a workman absents himself for ten consecutive days or over stays leave beyond the period of leave originally granted or subsequently extended for ten consecutive days shall be deemed to have left the services of the respondent without notice and in that situation, the respondent need not give any notice of termination to the workman as it will be deemed to be voluntary abandonment of service. There is no gainsaying the fact that the Certified Standing Orders have got the force of law. The petitioner to prove his claim regarding his illness could produce a medical certificate but he has not done. So, there is no difficulty in holding that the respondent/Company was justified in striking off the name of the petitioner from the roll of workmen because the petitioner by remaining absent for more than ten

consecutive days shall be deemed to have abandoned his employment and as such, the respondent need not have passed any order of termination. The petitioner is not entitled to any relief. The reference is answered and returned accordingly with no order as to cost.

Dated the 12th September, 1986.

B. P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak,  
Camp Court, Bahadurgarh.

Endorsement No. 7-86/1437, dated 6th October, 1986

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL;

Presiding Officer,  
Labour Court, Rohtak,  
Camp Court, Bahadurgarh.

No. 9/7/86/Lab/9525.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the Workman and the Management of M/s Gedore Tools (India) (P) Ltd., Kundli, Sonapat.

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 165 of 85

*between*

SHRI MAHABIR PARSHAD, WORKMAN AND THE MANAGEMENT OF M/S GEDORE TOOLS  
(INDIA) (P) LTD, KUNDLI (SONEPAT)

Shri Raghubir Singh, A.R., for the workman.

Shri B.B. Mahajan, A.R., for the management.

#### AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute, between the workman Shri Mahabir Parshad and the management of M/s Gedore Tools (India) (P) Ltd., Kundli (Sonapat) to this Court, for adjudication,—*vide* Haryana Govt. Gazette Notification No. 41225-30, dated 3rd October, 1985:—

Whether the termination of services of Shri Mahabir Parshad is justified and in order? If not, to what relief is he entitled?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the petitioner as per statement of claim filed in the Court is that he was working with the respondent as a Time Keeper on monthly wages of Rs. 938 beside other allowances and that the respondent served a charge-sheet upon him dated 31st December, 1984 and after holding a farce of an enquiry, in which, he was not given complete opportunity of participation, passed the order of dismissal. The domestic enquiry is being assailed by the petitioner on the grounds that he was not given a list of witnesses of the management, nor he was afforded an opportunity of cross-examining the witnesses of the management and that the Enquiry Officer Shri V.K. Sharma adopted a minatory posture towards him and further more he did not render the enquiry proceedings in an impartial manner. It is further alleged that the enquiry was unduly delayed, because of the conduct of the Enquiry Officer and that the Enquiry Officer was changed during midst of the proceedings flouting the principle of natural justice. *Inter alia*, it is alleged that the order of dismissal was not passed by the officer competent to do so and was passed in flagrant disregard of the provisions of the Certified Standing Orders of the respondent company. So, he has challenged his termination being unlawful and illegal. In the last, he has prayed that in case the order of dismissal is found to be legal and lawful punishment of dismissal awarded to him was glaringly disproportionate in relation to his alleged proved misconduct and as such, interference by this Court is called for.

3. In the reply filed by the respondent, most of the allegations made in the Claim Statement have been controverted. It is denied that the enquiry conducted against the petitioner was not in accordance with the principles of natural justice. It is alleged that the petitioner was given complete opportunity of participation during enquiry proceedings, which he availed of to the hilt. It is further asserted that the dismissal order was passed by an official competent to do so and that since the charges against the petitioner were of grave nature, order of dismissal was rightly passed against the petitioner.

4. On the pleadings of the parties, the following issues were settled for decision by me on 27th December, 1985:—

(1) Whether a valid and proper domestic enquiry was conducted by the respondent before dismissal of the petitioner? OPR.

(2) As per terms of reference.

5. I further directed that issue No. 1 regarding domestic enquiry shall be treated as preliminary issue. During course of arguments, the learned Authorised Representative of the parties agreed that in case the enquiry is found to be fair and proper, they need not be heard again on the quantum of punishment awarded to the petitioner as they choose to address arguments on this limb of the controversy today itself.

6. The management examined MW-1 Shri V.K. Sharma, Enquiry Officer and MW-2 Major Dharam Singh Dahiya, second Enquiry Officer, MW-3 Shri Ashok Kumar, Private Assistant in the respondent company. The workman appeared as his own witness as WW-1.

7. My findings on the preliminary issue No. 1 framed are as under:—

8. The learned Authorised Representative of the petitioner contended that the enquiry conducted in this case was not fair and proper, because no list of witnesses was furnished to the petitioner before start of the enquiry proceedings and further more, no copy of the enquiry report was given to the petitioner before passing the order of dismissal. The second limb of the controversy, I shall take up later on. In support of the first contention Shri Singh cited 1983 II LLJ 26 between Central Railway and Raghubir Saran. In that case, examination of the delinquent employee was conducted before the statements of the witnesses of the department were recorded. In that situation, it was held that the enquiry proceedings were vitiated. It was observed that the department should not only lead evidence first, but prove affirmatively that the employee was guilty of the charges framed. Regarding furnishing a copy of list of witnesses to the delinquent employee there was conflict of judicial opinion. With the passage of time judicial opinion has veered round to the view, that, in case, a delinquent employee is know of the charges against him, he need not be furnished list of the witnesses proposed to be examined because the purpose behind furnishing list of witnesses is that the delinquent employee should not be taken by surprise regarding the scope of charges framed against him and the mode proposed to be adopted by the management to prove the same. In the present case, before start of the enquiry proceedings, the petitioner asked for a list of witnesses and he was told by the Enquiry Officer after asking the management that the management shall examine one witness only and shall rely upon two registers maintained by the time office. In this view of the matter it cannot be held that any document was withheld by the management to the prejudice of the petitioner.

9. In the present case, the Enquiry Officer has been rather over indulgent in affording opportunity of cross-examination to the petitioner, because examination-in-chief of the solitary witness of the management runs into less than one hand written page, whereas the cross-examination conducted by the petitioner runs into more than thirty pages. So, it cannot be argued on behalf of the petitioner that the petitioner was not given opportunity of cross-examining the witnesses produced by the management.

10. It was also contended on behalf of the petitioner that the management had no lawful reasons to change the Enquiry Officer in the midst of the enquiry proceedings in spite of opposition offered by the petitioner. A change was made because Shri V.K. Sharma first Enquiry Officer expressed a desire to be relieved of this duty as he had become irregular in coming to the factory for some personal reasons and the management appointed Major Dharam Singh Dahiya as Enquiry Officer, who ultimately gave his findings Ex. M-30. The same runs into about 14½ pages, though effective findings are recorded in 2½ pages. The allegations against the petitioner were that he had defaced certain leave entries in the leave register of his brother Shri Jagbir Singh, who incidentally was employed in the respondent company. I have seen the original leave register of the respondent company. Interpolations have been made in the same to the advantage of Shri Jagbir Singh admittedly brother of the petitioner is not denied by Shri Raghubir Singh Authorised Representative of the workman. His sole contention was that since the register is maintained/handled by three other Time Keepers on three different shifts, complicity of the petitioner alone in defacing the entries is not proved. The plea of the petitioner in reply to the show cause notice was that he had an altercation with Shri Rajbir Singh Time Keeper in the month of November, 1983 when he marked the presence of one Shri R.S. Pandey workman who was not present for half day and this indiscretion on the part of Shri Raghubir Singh Time Keeper was brought to the notice of Shri Ram Phal, Head Time Keeper. So, his plea was that cuttings in the entries regarding leave record of Shri Jagbir Singh his brother

might have been made by Shri Raj Singh, Time Keeper to falsely implicate him in this case. In my opinion, the defence offered on behalf of the petitioner is too fragile to be believed. It is difficult to believe that Shri Rajbir Singh, Time Keeper would indulge in this nefarious act just to down grade the petitioner in the eyes of the management. On earlier occasions also the petitioner has marked his brother present, though he was on leave and this question was put to him during cross-examination during the enquiry proceedings. So, it is difficult to hold that the Enquiry Officer flouted the principle of natural justice in conducting the enquiry proceedings or that change in the Enquiry Officer was made by the management to the prejudice of the petitioner. So, there is no difficulty in holding that the enquiry in this case was fair and proper and as such, this issue is answered in favour of the management.

11. Faced with this situation the learned Authorised Representative of the petitioner contended that the order of dismissal was passed by one Shri G.S. Mayo, who was not authorised to do so. The order of dismissal is Ex. MW-3/A. Shri Mayo has been authorised to pass such order,—*vide* general power of attorney Ex. MW-3/B in respect of employees whose basic pay was less than Rs. 600. The basic pay of the petitioner on the relevant date was Rs. 470 as stated by MW-3 Shri Ashok Kumar, though the petitioner was non committal on this fact when a pointed question was put to him during cross-examination when he appeared in the Court as WW-1. So, the order of dismissal was passed by a person competent to do so.

12. Now, the question which survives for determination is as to whether interference by this Court under section 11-A of the said Act is called for or not. On behalf of the petitioner Shri Singh forcefully contended that for a single act of indiscretion the management was not justified in awarding extreme penalty of dismissal to the petitioner and this Court should interfere with the order of dismissal on this ground alone. I am not inclined to go with Shri Singh on this point. The petitioner was holding the sensitive job of Time Keeper. His duties were to mark the presence of the workers entering the factory premises. On the basis of these entries salary bills are prepared. The petitioner for reasons best known to him tried to help his brother Shri Jagbir Singh, who was also employed in the respondent factory. Defacing all leave entries to the advantage of his brother, the petitioner committed an act of serious misconduct and the management was justified in losing confidence in him. Such an employee does not deserve the relief of reinstatement but to lessen the rigours of loss of bread, this Court is inclined to award him some compensation. A sum of Rs. 7,000 is awarded compensation, which the respondent shall pay to the petitioner. The reference is answered and returned accordingly. There is no order as to cost.

The 11th October, 1986.

B. P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak.

Endst. No. 165-85/1495, dated the 11th October, 1986

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak.

No. 9/7/86-6Lab./9535-A.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the Workman and the Management of (i) Director, Education Department (Schools), Haryana, Chandigarh, (ii) Headmistress, Government High School, Pahrawar.

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK.

Reference No. 108 of 85

*between*

SHRIMATI SANTRA DEVI, WORKMAN AND THE MANAGEMENT OF (i) DIRECTOR, EDUCATION DEPARTMENT (SCHOOLS), HARYANA, CHANDIGARH, (ii) HEADMISTRESS, GOVT HIGH SCHOOL, PAHRAWAR

*Present.*

Shri V.S. Singal, A.R., for the workman.

Shri Om Dutt Sharma, A.R., for the management.

## AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute, between the workman Smt. Santra Devi and the management of (i) Director, Education Department (Schools), Haryana, Chandigarh. (ii) Headmistress, Govt. High School, Pahrawar, to this Court, for adjudication, —vide Haryana Government Gazette Notification No. 28510-16, dated 9th July, 1985 :—

Whether termination of services of Smt. Santra Devi is justified and in order? If not, to what relief is she entitled?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the petitioner is that she was employed as a Safai Karamchari/Sweeper from 11th February, 1980 to 11th July, 1983 and that the period of employment was extended for more than 240 days and her name was also enrolled in the Local Employment Exchange and as such, she has got preferential right to be recommended for regular appointment, because there was no complaint against her during her service period. It is further alleged that she has actually worked with respondent number 2 upto 11th July, 1983, though the Headmistress of the respondent School fabricated official record just to deprive her of her wages and that she unreasonably removed her from service with effect from 11th July, 1983 and did not recommend her name for confirmation and in spite of that appointed another person on the job and that since employment opportunities in India are very scarce, it is unequitable to throw out the petitioner from employment.

3. In the reply filed by the respondent School, most of the allegations made in the Claim Statement have been controverted. Further, it is admitted that the petitioner was employed on 11th February, 1980 as Part-time Sweeper and she was to be paid her wages Rs. 85 p.m. from the contingent fund of the School and that the wages were liable to be deducted for her period of absence from duty. It is denied that the petitioner was in employment from 11th February, 1980 to 11th July, 1983. It is asserted that she remained in employment from 11th February 1980 to 4th April, 1983, but with short breaks in service ranging from 11 days to 42 days every year and so, it is alleged that the petitioner was not in continuous employment of the respondent as alleged. *inter alia* it is alleged that the petitioner was not paid any wages for the vacation period also and as such, the petitioner has not worked for 240 days continuously during the last 12 calendar months prior to the date of termination. It is further alleged that the petitioner was removed from service on instructions from the Education Department. It is also denied that any forged entry was made in the School record just to deprive her wages of her duty. Additional plea projected is that SDEO Rohtak was a necessary party, who was the appointing authority of the petitioner.

4. In the replication filed by the petitioner, various pleas taken on behalf of the respondent have been controverted.

5. On the pleadings of the parties, the following issue was framed for decision by me on 13th January, 1986:—

(1) As per terms of reference.

6. Originally Headmistress, Govt. Higher Secondary School was a party in the reference but on the instructions, from the Labour Department,—vide letter dated 3rd October, 1985 Headmistress, Govt. High School, Pahrawar has made a party.

7. Respondent number 1 did not appear in spite of service, so, *ex parte* proceedings order was passed against respondent No. 1, which happens to be DPI Schools, Haryana, Chandigarh.

8. The petitioner in support of his claim examined himself as WW-1 and the respondent examined MW-1 Smt. Santosh Sehgal, Headmistress, Govt. High School, Pahrawar.

9. Heard. My findings on the issue framed are as under :—

10. Petitioner's appointment on 11th February, 1980 as a Part-time Sweeper is not denied by the respondent, so her removal from service on 4th April, 1983. It was contended on behalf of the respondent that the petitioner was a Part-time Sweeper paid from contingent fund and that her tenure of employment was interrupted thrice during vacation, so benefits of section 25F of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act) could not be available to her. He further contended that when post of regular Sweeper-cum-Chowkidar was sanctioned for the respondent School by the Education Department, Employment Exchange at Rohtak was approached to send suitable candidates for interview and that on an enquiry Divisional Employment Exchange Rohtak advised the respondent/School that a female cannot be recommended for appointment as a Sweeper-cum-Chowkidar because of the hazardous duties, which the Chowkidar has to perform. It was further contended by Shri Sharma that there was no *mal fide* on the part of the respondent in not appointing the petitioner on a regular post of Sweeper-cum-Chowkidar and in that behalf he was alluded to the correspondence. The respondent had with the various authorities.



11. In my opinion, all these contentions are in the realm of conjecture and as such not tenable. May be that the petitioner was employed as Part-time at a handsome salary of Rs. 85 p.m., It may be possible that the respondent School was wrongly advised by the Employment Exchange that a woman cannot be appointed on the job of Sweeper-cum-Chowkidar. Article 14 of the Indian Constitution is very clear that no distinction can be made on the basis of sex, creed and caste. In the present set up women employees are seen functioning in all spheres of life including Police and Army. So, it was not right on the part of the respondent to accept wrong advice of the Employment Exchange authority that the female cannot be appointed on the post of Sweeper-cum-Chowkidar. On behalf of the petitioner, Shri Singla has drawn my attention to the latest pronouncement of the Hon'ble Supreme Court of India in the authority reported in 1986 Vol. I LLJ 127 H.D. Singh vs. Reserve Bank of India and another. In the authority under reference, the petitioner was employed as a Tikka Mazdoor on handsome wages of Rs. 3 per day. (These observations have been drawn from the judgement of their Lordships). He used to be called upon by the respondent Reserve Bank of India as and when required for counting the coins. Even before their Lordships, the petitioner filed an affidavit that in the last 12 calendar months, he was kept engaged for 202 days only. Their Lordships *suo-moto* added 52 Sundays and 17 holidays and raised his working days beyond the statutory limit of 240 days. In the present case, even if vacation period is excluded, the petitioner's working days will exceed 240 days limit. It was orally argued by Shri Sharma, learned Authorised Representative of the respondent that there were three breaks in service, ten days in the month of April, forty days in the months of May and June and eight days in the month of October. The total number of days comes to sixty. Even if, this period is excluded even then, the petitioner has worked for more than 240 days in the last 12 calendar months and as such, her services could not have been terminated without complying with the mandatory provisions of section 25F of the said Act. Admittedly no compliance was made because no prior one month's notice or wages in lieu thereof were paid to the petitioner, nor the retrenchment compensation as envisaged in the said section. So, her termination from employment was void *ab initio*. Under these circumstances, order of termination cannot be sustained.

12. The question of back wages does not seem to be ticklish, because she raised the demand notice after about one year and four months from the date of her termination. Delay for less than three years has not been reviewed adversely by this Court. The petitioner is ordered to be reinstated with continuity of service and full back wages. The reference is answered and returned accordingly with no order as to cost.

B. P. JINDAL,

Dated the 30th September, 1986.

Presiding Officer,  
Labour Court, Rohtak.

Endst No. 108-85/1443, dated 6th October, 1986

Forwarded (four copies) to the Secretary to Govt., Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak.

No. 9/7/86-6Lab/9536.—In pursuance of the provisions of section 17 of the Industrial Disputes Act 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the Workman and the Management - M/s Somany Pilkington's Ltd., Kasar, Bahadurgarh (Rohtak).

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 63 of 84

between

SHRI BALJEET SINGH, APPLICANT AND THE MANAGEMENT OF M/S SOMANY PILKINGTON'S LTD., KASAR, BAHADURGARH (ROHTAK)

Present :

Shri S.S. Gupta, A.R., for the workman.

Shri Sudhir Chadha, A.R., for the management.

## AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute, between the workman Shri Baljeet Singh and the management of M/s Somany Pilkington's Ltd., Kasar, Bahadurgarh (Rohtak) to this Court for adjudication,—*vide* Haryana Government Gazette Notification No. 15862-67, dated 24th April, 1984:—

Whether the termination of services of Shri Baljeet Singh is justified and in order ? If not, to what relief is he entitled?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the petitioner is that he was working with the respondent in the Press Shop for the last about five years and all through his work and conduct was satisfactory and that all of a sudden on 24th September, 1982, the petitioner was not allowed to perform his duties and was made to sit in the time office and all protestations by the petitioner with the management proved of no avail and ultimately on 29th September, 1982, the petitioner filed written complaint with the respondent, with copies to the labour authorities because on 24th September, 1982 his attendance card was taken away from him and as such, the petitioner was constrained to raise the demand notice on 7th October, 1983 impressing upon the management to allow the petitioner to resume his duties but to no avail. Hence, there is a prayer for reinstatement with continuity of service, and full back wages.

3. In the detailed reply filed by the respondent, preliminary objections taken are that the present reference by the Haryana Government is not valid and proper one, because the same has been made in complete disregard of the detailed denial made by the respondent before the Labour-cum-Conciliation Officer during conciliation proceedings. In the alternative, it is pleaded that the case of the petitioner does not constitute an industrial dispute, because he was never discharged or dismissed or retrenched from employment, which could attract the provision of section 2A of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act). In the same vein, it is alleged that the workman remained absent from his duties in violation of the Certified Standing Orders of the respondent/Company and in spite of repeated notices dated 7th October, 1982, 11th October, 1982 and 20th October, 1982 the petitioner did not resume his duties and in spite of that the management was charitable enough to offer service compensation as envisaged under section 25F of the said Act and G to the petitioner, details of which were communicated to him *vide*,—letter dated 8th July, 1983 but the petitioner did not choose to collect his dues and in the process even defied the Labour Commissioner, Haryana, Chandigarh. On merits also, reply runs on the same lines, though it is admitted that the petitioner was working since 17th November, 1977 as Labourer/Helper in the Klin department and that he started absenting from his duties with effect from 26th September, 1983.

4. On the pleadings of the parties, the following issues were settled for decision by me on 20th November, 1984:—

- (1) Whether the reference has not been made by the competent authority? OPR.
- (2) Whether the workman abandoned his employment of his own? OPR.
- (3) If issue No. 2 is not proved then as per reference.

5. The petitioner himself appeared as WW-3 and in support of his pleas examined WW-1 Shri Rameshwar WW-2 Shri Jagmohan. On the other hand, the management examined MW-1 Shri R.N. Sharma, Time Office Incharge, MW-2 Shri Tek Chand, Security Inspector, MW-3 Shri R.P. Hooda, Labour Officer.

6. The learned Authorised Representatives of the parties heard. My findings on the issues framed are as below :—

## Issue No. 1 :

7. This issue as it is was not pressed on behalf of the management, because nothing was argued on behalf of the management that the present reference has not been made by the competent authority.

## Issues No 2 and 3 :

8. Since both these issues are interlinked, they cannot disposed of in isolation. The clear cut case of the petitioner is that he was not allowed to perform his duties from 24th September, 1982 onwards when he went to the factory premises as usual and was made to sit in the time office and thereafter he addressed many complaints to the Manager of the factory and also to the labour authorities and that the plea of the respondent that the petitioner started absenting from his duties from 26th September, 1982 is a trumped one to make out a false case of abandonment of employment by the petitioner. Happily for the perusal of this Court various letters written by the respondent to the petitioner are on record. The same are dated 11th October, 1982 Ex. M-3, 20th October, 1982 Ex. M-4. Petitioner's reply to these letters is Ex. W-3. It was alleged by the management in these letters that the petitioner has started absenting from his duties w.e.f. 26th September, 1982 and he was

asked to resume his duties immediately. In reply to these letters copy of which is Ex. W-3, the petitioner alleged that all though he has been going to the factory of the respondent but he was not allowed access into the same and he negated the allegations of the management that he had started absenting from his duties from 26th September, 1982 onwards. Similarly in Ex. W-5 a letter written by the petitioner to the Manager of the respondent Company, there are allegations that the management is not allowing the petitioner to resume his duties and his access to the factory premises has been barred. The plea of the management seems to be palpably wrong. Had the petitioner not being interested in holding on his job, there was no question of his replying to every communication of the respondent regarding his being absent from his duties. On behalf of the petitioner strong reliance was placed upon 1977 Lab. I.C. 1695 Delhi Cloth and General Mills Company Ltd V/s Shambhu Nath Mukherjee and another. It was a case of striking off the name of the workman from the rolls of the management. Their Lordships held that such termination of service is retrenchment within the meaning of section 2(oo) of the said Act. On this very point, another authority cited was 1982 Lab. I.C. 811 Robert D' Souza versus Executive Engineer, Southern Railway and another. The later authority of the Hon'ble Supreme Court was relied upon by his Lordship of the Punjab and Haryana High Court in a recent authority reported in 1986 (52) Indian Factories and Labour Reports between Uttam Singh and Labour Court Delhi. In the authority under reference, case of the management was that the workman was not regular in attending to his duties and the management had informed the workmen through a report for duty within three days but he did not and so, the name of the workman was struck off from the roll of workers. In the present case, facts are even more peculiar. The case of the management as made out from the reply filed to the Claim Statement is that when the workman failed to resume his duties inspite of notices dated 7th October, 1982, 11th October, 1982 and 20th October, 1982 the management presumed that the petitioner has abandoned his employment but even then of charity and kindness the management choose to offer him service compensation as envisaged under section 25F of the said Act. This was done as late as in the month of July 1983. The workman is alleged to be absenting from his duties after 26th September, 1982. What was the necessity for the management to have offered him service compensation, —vide letter dated 8th July, 1983. Copy of the same is Ex. M-5. If the workman had abandoned his employment, he was not entitled to any retrenchment compensation or one month's notice, though he could claim remaining wages, gratuity and other dues. Since there was a lurking doubt in the mind of the management about the justifiability of its action, it choose to pay lip sympathy to the provision of section 25F of the said Act.

9. Now, I shall briefly touch upon the oral evidence adduced on behalf of the parties. To negative the plea of the respondent that he was voluntary absent from his duties from 24th September, 1982 onwards, the petitioner examined Shri Rameshwar WW-1, who was a co-worker with him in the respondent factory. He stated that on 24th September, 1982 he and the petitioner were working in the respondent factory and the petitioner was called in the time office at about 4.00 p.m. by the Labour Officer and was made to sit outside the office and that the petitioner went on going to the gate of the factory for about one month, who was not allowed access to the factory premises WW-2 Shri Jasmohan who was also working with the petitioner made a similar statement. Pleas taken in the Claim Statement have been corroborated by the petitioner when he appeared in the Court as WW-3.

10. The management tried to support its plea from the statement of Shri R.N. Sharma, Time Office Incharge who stated that the petitioner absenting from his duties w.e.f. 26th September, 1982 and that he never turned up at the factory gate thereafter. Similar statement was made by Shri Tek Chand, Security Inspector, who appeared as MW-2 and MW-3 Shri R.K. Hooda, Labour Officer. This witness after supporting the stand of the respondent admitted that Shri S.K. Verma was Incharge of the Press Shop, where the petitioner was working, but no report was made by Shri Verma regarding absence of the petitioner. This witness was also non-committal on the fact as to when the petitioner's name was struck off from the roll of workman.

11. In my opinion, statement made by three officials of the respondent are absolutely self-serving in nature, who had no option but to make the same at the behest of the management just to secure their own employment. A pigmy was pitted against a Goliath. He went on knocking at the door of the respondent factory in quest of justice and fair play but he was not heard. Inspite of numerous petitions with the respondent he was not allowed to resume his duties. The management even did not strike off his name from the rolls of workmen. The intention of the management was to make out a false case of abandonment of employment by the petitioner but even then it choose to offer him retrenchment compensation as envisaged under section 25F of the said Act, though in case of abandonment of employment, such compensation is never offered.

12. It was faintly contended on behalf of the respondent that the terms of reference do not cover the plea of absence from duties taken by the respondent and so, this Court would be travelling beyond the terms of reference in deciding the question of abandonment of employment by the petitioner. Every case has to be decided on the basis of its peculiar facts. In the Punjab and Haryana authority cited above, facts are not similar but the ratio of the observations may apply to the facts of the present case. This Court is still of the view that the Labour Court can not travel beyond the terms of reference and it is so provided in section 10 sub-clause 4 of the said Act except on questions which are incidental or ancillary to the terms of reference. Where the plea of abandonment is palpably false, this Court can always go behind the same and undo the wrong done to a poor workman. Had the petitioner ever intended to abandon his employment, there was no question of his replying to the notices issued to him by the management and raising the demand notice within ten days of his alleged termination. The demand notice is dated 7th October, 1982. So, there is no difficulty in holding that the petitioner never abandoned his employment as alleged and that the respondent Management barred his entry

to the factory premises to make out a case that the petitioner started absenting from his duties and so the act of the management squarely falls within the term "termination" which was brought about by the management through means other than fair and legitimate and as such, termination order is set aside. The workman is ordered to be reinstated with continuity of service and full back wages. He shall be paid wages from 24th September, 1982 onwards at the rate of last drawn by him including other incidental benefits, which might have accrued to him after termination of his service. The reference is answered and returned accordingly with no order as to cost.

The 30th September, 1986.

B.P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak.

Endst. No. 63-84/1444, dated 6th October, 1986

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B.P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak.

The 15th December, 1986

No. 9/8/86-6Lab/10154.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s. Curewell India Ltd., Mathura Road, Faridabad.

IN THE COURT OF SHRI A.S. CHALIA, PRESIDING OFFICER, LABOUR COURT, FARIDABAD

Reference No. 219 of 85

*Between*

SHRI JAI SINGH, WORKMAN AND THE RESPONDENT-MANAGEMENT OF M/S CUREWELL INDIA LTD., MATHURA ROAD, FARIDABAD

*Present.*—Shri Jawahar Lal for the workman.

Shri H.L. Kapoor and Shri S.L. Gupta for the management.

#### AWARD

This reference under Section 10(1)(c) of Industrial Disputes Act, 1947 (Act No. 14 of 1947) as amended from time to time and latest by Act No. 49 of 1984 (hereinafter referred as the said Act) was made this Court by the State of Haryana (Department of Labour)—, vide its endorsement No. ID/FD/29-85/18547—52, dated 25th April, 1985 to adjudicate upon the dispute of service matter covered by Second Schedule under Section 7 of the said Act, arisen between Shri Jai Singh, workman and the respondent-management of M/s. Curewell India Ltd., Mathura Road, Faridabad. Accordingly, it has been registered as reference No. 219 of 1985.

2. Briefly the facts of the case are that Shri Jai Singh had worked as a apprentice in Boiler attendant with effect from 16th November, 1981 to 16th November, 1984 and he was drawing wages at Rs. 260 per month. His allegations are that respondent had refused to take him on duty on 16th November, 1984 and in this manner his services were terminated in an illegal manner and against the principles of natural justice. It is also claimed by him that he had been working on other jobs also and respondent had been paying wages lower than the minimum prescribed one and he has been victimised due to his trade union activities and act of management is un-fair labour practice. Accordingly, he has requested to re-instate him on the job with full back wages and continuity of service also.

3. On notice, respondent had appeared and filed written statement contesting the claim made by Shri Jai Singh. Preliminary objection has been taken to the effect that he is not a worker as defined in the said Act and as a matter of fact he was engaged as a apprentice in Apprenticeship Act, 1961 and in between the parties there is no dispute and as such reference is bad. It has also been defined that he had done other jobs also. It is averred that he was awarded training as per Apprenticeship Act, 1961 and according to the provisions thereof he was spared after training by way of rejoinder, it has been repeated by him that he is a workman. He repeated his claim as well as allegations also.

4. On the pleadings of the parties, my learned predecessor had framed the following issues on 18th October, 1985 :—

- (1) Whether claimant is a workman under Section 2(S) of the Industrial Disputes Act ?
- (2) Whether reference is bad ?
- (3) As per reference ?

On behalf of the respondent its factory manager had appeared as MW-1. On the other hand there are statements of Shri Jai Singh, as WW-1 and Janki Dass as WW-2. The parties have produced documentary evidence also. I have heard, the parties as represented above. My findings are as follows :

5. **Issue No. 1.**—On behalf of the respondent serious reliance has been placed on Ex. M-1 Model Contract of Apprenticeship in between Shri Jai Singh and respondent executed on 16th November, 1981. According to it Shri Jai Singh had to get training for three years in the trade of Boiler attendant. Its contents have been admitted as correct by Shri Jai Singh when examined on oath. The said contract was registered in the office of Deputy Apprentice Adviser on 9th March, 1982,—*vide* Ex. M-2. It bears signatures of Shri Jai Singh, dated 20th March, 1982. In between the parties there is no dispute about the contents thereof. Under Rule 5 of Apprenticeship Rules, 1962 there is a list of trades and period of training for trade apprentices,—*vide* Group No. 13 (Power Plant Trade Group) Item No. 1, there is mention about the training of boiler attendants for a period of three years and payment of stipend to apprentices are mentioned in Rule 7. Further under Para No. 5 of Contract Ex. M-1 it is not obligatory on the part of the employer to offer employment to the apprentices on completion of training. *Vide* Ex. M-5 training was imparted to him with effect from 16th November, 1981 and for that purpose letter were addressed to I.T.I. also,—*vide* Ex. M-3, M-4, W-4, M-5 for his training. The contents of these letters have been admitted by Shri Jai Singh. In other words it has been clearly admitted by him that training was imparted to him with effect from 16th November, 1981 to 16th November, 1984. He also admits that he was engaged as an apprentice in the trade of Boiler attendant and during the said period stipend had also been paid to him. Now on one hand it has been claimed by him that he is a workman as defined under the said Act while on the other hand it is contended that he was only a apprentice under Section 18 of Apprenticeship Act, 1961 and he cannot be termed as a worker under the said Act. On behalf of the respondent contents of Section 18 of the Act referred above have been read out. According to it such is a apprentice trainee and not a worker and on the completion of training, he has been spared. I could lay my hand on 1986-(2) Labour Law Journal page 346 ; Bhaskaran *versus* Kerala S.E.B. In that case contract of Apprentice was terminated by the management and they had claimed that they were workers and could not be ousted against the provisions of Section 25-F of the said Act. It was held that they were apprentices and not workers as defined under the said Act and protection of Section 25-F could not be extended to them. In the present case, apprentice has completed his training in the said trade for 3 years and only after that he has been spared and on the face of it he cannot be termed as a workman as claimed by him. I have accordingly no hesitation in holding that Shri Jai Singh is not entitled to be termed as workman as defined under the said Act. Since he was only a apprentice and training was imparted to him according to contract.

6. **Issue No. 2. and 3.**—The remaining two issues hardly arise since it has already been held that Shri Jai Singh was not a workman as defined under Section 2(s) of the said Act and the reference made by the Government in the face of it is a bad one and as such the same stands quashed.

7. **Relief.**—The net result of my discussion is that no relief can be granted to Shri Jai Singh since he was not a workman under the said Act and no reference could be made in the matter.

The award is given accordingly.

Dated the 24th October, 1986.

A.S. CHALIA,  
Presiding Officer,  
Labour Court, Faridabad.

— — —  
Endorsement No. 2658, dated 5th November, 1986

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department Chandigarh as required under Section 15 of I.D. Act.

A. S. CHALIA,  
Presiding Officer,  
Labour Court, Faridabad.